General Assembly
Official Records
Seventy-second Session
Supplement No. 33

A/72/33

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

United Nations • New York, 2017

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Note

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[7 March 2017]

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Chapter I
Introduction

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 71/146 and met at United Nations Headquarters from 21 February to 1 March 2017.

2. In accordance with paragraph 5 of General Assembly resolution 50/52, the Special Committee was open to all States Members of the United Nations.

3. The Special Committee held three meetings: the 284th to 286th, on 21 and 22 February and 1 March. The Working Group of the Whole, established at the 284th meeting, held four meetings, from 22 to 24 February and on 1 March.

4. The session was opened by Vasiliki Krasa (Cyprus), in her capacity as Vice-Chair of the previous session of the Special Committee.

5. At its 284th meeting, on 21 February, the Special Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981,[1] elected the following members of its Bureau:

Chair:

Ruslan **Varankov** (Belarus)

Vice-Chair:

Elsadig Ali Sayed **Ahmed** (Sudan)
Christian **Karstensen** (Denmark)
Shaharuddin **Onn** (Malaysia)

Rapporteur:

Isaías **Medina** (Bolivarian Republic of Venezuela)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group of the Whole.

7. The Director of the Codification Division of the Office of Legal Affairs acted as Secretary of the Special Committee. The Principal Legal Officer of the Division acted as Assistant Secretary of the Special Committee. The Division provided substantive services for the Special Committee and the Working Group.

8. At its 284th meeting, the Special Committee adopted the following agenda:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the questions referred to in General Assembly resolution 71/146, in accordance with the mandate of the Special Committee as set out in that resolution.
6. Adoption of the report.

[1] See A/36/33, para. 7.

9. General statements touching on all or several items were made at the 284th and 285th meetings. Their substance is reflected in the relevant sections of the present report.

10. With regard to the question of the maintenance of international peace and security, the Special Committee had before it General Assembly resolution 64/115 and the annex thereto, entitled "Introduction and implementation of sanctions imposed by the United Nations".

11. The Special Committee also had before it a revised proposal submitted at the 1998 session by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security;[2] a working paper[3] submitted by the Bolivarian Republic of Venezuela during the 2011 session, containing a further revised version of the proposal submitted by the same delegation at the 2010 session, entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs"; a further revised version, submitted at the 2014 session,[4] of the working paper submitted by Belarus and the Russian Federation at the 2005 session on an advisory opinion to be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence; a working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations;[5] and a working paper submitted by Ghana at the 2016 session on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes.[6]

12. With regard to the question of the peaceful settlement of disputes, the Special Committee had before it a proposal, revised in 2014 by the Russian Federation, recommending that the Secretariat be requested to establish a website dedicated to the peaceful settlement of disputes between States and to update the *Handbook on the Peaceful Settlement of Disputes between States*.[7] It also had before it a revised version of the proposal submitted on behalf of the Non-Aligned Movement during the 2015 session entitled "Pacific settlement of disputes and its impact on the maintenance of peace".[8]

13. At its 286th meeting, on 1 March, the Special Committee adopted its report on its 2017 session.

[2] See A/53/33, para. 98.
[3] A/66/33, annex.
[4] See A/69/33, para. 37
[5] A/67/33, annex.
[6] A/71/33, annex.
[7] See A/69/33, para. 52.
[8] A/AC.182/L.146, reproduced in the annex to the present report.

Chapter II
Maintenance of international peace and security

A. Introduction and implementation of sanctions imposed by the United Nations

14. Reference was made to the question of the introduction and implementation of sanctions imposed by the United Nations (see General Assembly resolution 64/115, annex) during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and at the 1st meeting of the Working Group of the Whole.

15. During the general exchange of views, many delegations reiterated their concern regarding sanctions imposed by the Security Council. It was re-emphasized that sanctions should not be used as blunt instruments designed to punish the population of the target country and that they could not be used as a response to all violations of international obligations.

16. Several delegations emphasized that sanctions should be introduced and applied in conformity with the provisions of the Charter and international law. It was reiterated that they should be imposed only as a last resort when there existed a threat to international peace and security, a breach of the peace or an act of aggression. Several delegations asserted that the objectives of sanctions regimes for a target country should be clearly defined, based on tenable legal grounds and imposed for a clear period, and that sanctions should be promptly lifted when there were no longer grounds for having them. Some delegations reaffirmed their concern about the imposition of unilateral sanctions in violation of international law. It was stated that, in practice, such sanctions were often imposed as a result of the extraterritorial application of national regulations and that they infringed on the rights of affected States, in addition to the individual rights of affected persons.

17. Other delegations reaffirmed that sanctions, applied in accordance with the Charter and in a targeted fashion, were an important instrument for the maintenance and restoration of international peace and security. It was also reiterated that the shift from comprehensive to targeted sanctions had reduced the possibility of adverse consequences for civilian populations and third parties.

18. Several delegations welcomed the institution of regular briefings by the Secretariat on the document entitled "Introduction and implementation of sanctions imposed by the United Nations", annexed to General Assembly resolution 64/115, which had been adopted on the basis of the work of the Special Committee. It was noted that in recent years sanctions committees had organized meetings and open briefings to hear concerns and suggestions from Member States, which had increased transparency.

19. With regard to special economic problems arising from the implementation of sanctions, several delegations expressed the view that the question of the implementation of provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII, Article 50, should not be removed from the agenda of the Special Committee. Other delegations noted that

the issue had been effectively dealt with through the employment of targeted sanctions and no longer merited further discussion in the Special Committee.

Briefings

20. At its 1st meeting, the Working Group of the Whole received a briefing by a representative of the Department of Political Affairs on the document entitled "Introduction and implementation of sanctions imposed by the United Nations", annexed to General Assembly resolution 64/115, as requested by the Assembly in paragraph 4 of its resolution 71/146 and paragraph 3 of the annex thereto. The representative provided information on the elements of the document and responded to questions raised. In particular, the representative provided general information about United Nations sanctions regimes and discussed the role of the sanctions committees and expert panels in the implementation of sanctions; recent developments in the application of sanctions; and avenues for greater information-sharing among Member States on the implementation of United Nations sanctions regimes. The representative indicated that all information presented was available on the website of the subsidiary organs of the Security Council.[9]

21. Many delegations expressed their appreciation for the briefing. Delegations welcomed the efforts made to enhance the fairness and transparency of the procedures regarding sanctions and to increase the knowledge base among delegations. The work of the Ombudsperson was also commended.

22. Several delegations encouraged the Secretariat to further improve communication and knowledge-sharing on sanctions with delegations, as well as to increase the opportunities for training and capacity-building. The Secretariat was also asked to clarify the differences between the delisting procedures of the Ombudsperson and the Focal Point for Delisting. The representative from the Department of Political Affairs indicated that Member States were welcome to contact the Department when information and support on the sanctions issue were needed. He noted that a review of delisting procedures fell within the prerogative of the Security Council.

23. The Secretariat was also requested to carry out research with regard to the reasons for the imposition of sanctions, and to clarify the methodology for the assessment of their unintended socioeconomic and humanitarian consequences, as reflected in paragraph 9 of the annex to General Assembly resolution 64/115. The representative of the Department of Political Affairs indicated that the imposition of sanctions and the assessment of their impact fell within the prerogative of the Security Council and was managed by individual sanctions committees and their respective expert panels when mandated by the Council to do so, rather than by the Secretariat. It was also suggested that the Secretariat study the impact of unilateral sanctions and whether they had been adopted in compliance with international law. The representative of the Department indicated that that was a question for Member States and noted that there was a Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights. The view was subsequently expressed that, in terms of impact, the system of special procedures of the Human Rights Council, under which the Special Rapporteurs were appointed,

[9] www.un.org/sc/suborg/.

was different from that of the sanctions committees in the United Nations framework.

24. A number of delegations raised operational issues relating to the profile of experts, the measures taken to ensure humanitarian access and the interaction with regional monitoring bodies. The representative of the Department of Political Affairs indicated that experts should display subject matter expertise, emphasizing that investigative skills were an asset, that humanitarian exemptions were provided for and managed by the relevant sanctions committee and that the Secretariat increasingly interacted with regional monitoring bodies with regard to the implementation of sanctions.

B. Consideration of the revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

25. The revised proposal submitted by Libya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (see A/53/33, para. 98) was referred to in general terms during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 1st meeting of the Working Group of the Whole.

26. While support was expressed for the continued consideration of the proposal, other delegations were of the view that the proposal was among those that duplicated revitalization efforts undertaken elsewhere within the Organization and that it had been superseded by events.

27. In the Working Group of the Whole, the sponsor delegation reiterated its willingness to engage in a discussion on its revised proposal with a view to reaching a common understanding of the issues raised therein.

28. The sponsor delegation was encouraged to consider extracting those key elements of the proposal that remained valid, with a view to presenting them in a non-paper, possibly in combination with key elements of other proposals, for further consideration by the Special Committee.

C. Consideration of the further revised working paper submitted by the Bolivarian Republic of Venezuela entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs"

29. The further revised working paper entitled "Open-ended working group to study the proper implementation of the Charter of the United Nations with respect to the functional relationship of its organs", submitted by the Bolivarian Republic of Venezuela at the 2011 session of the Special Committee (A/66/33, annex), was referred to during the general exchange of views held at the 284th and 285th

meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 1st meeting of the Working Group of the Whole.

30. In their general comments, several delegations reiterated their concern that the Security Council had encroached on the functions and competences of the General Assembly and the Economic and Social Council by addressing issues that fell within the competence of those organs. It was noted that that encroachment by the Security Council would undermine the framework established by the Charter. The view was expressed that there was a need to establish the right balance of functions and parallel activities among the principal organs of the United Nations. Reference was again made to paragraph 153 of the 2005 World Summit outcome document (General Assembly resolution 60/1) and to paragraph 35 of the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels (General Assembly resolution 67/1), in which the importance of continuing efforts to reform the Security Council was stressed. It was reiterated that the reform of the Organization should be carried out in accordance with the principles and procedures established by the Charter.

31. Several delegations expressed support for the continued consideration of the proposal. It was suggested that, in order to have a meaningful and constructive discussion, the main elements of the proposal, together with the main elements of the proposals by Libya and Cuba, should be extracted and presented in the form of a non-paper for further discussion in an informal setting.

32. The view was reiterated by other delegations that the proposal was duplicative of other efforts aimed at revitalizing the Organization. Opposition was expressed to the establishment of an open-ended working group.

33. The sponsor delegation requested that the working paper be retained on the work programme of the Special Committee. It reiterated its intention to continue to hold an inclusive and participative dialogue on the proposal and welcomed suggestions to further improve the working paper.

D. Consideration of the revised working paper submitted by Belarus and the Russian Federation

34. During the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and at the 2nd meeting of the Working Group of the Whole, the Special Committee considered the further revised working paper submitted by Belarus and the Russian Federation at the 2014 session of the Special Committee (see A/69/33, para. 37), in which it was recommended, inter alia, that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. Opposition to the request for an advisory opinion, which had been expressed at previous sessions of the Special Committee by other delegations, was reiterated.

35. The sponsors of the proposal recalled the background of the proposal and highlighted the continued relevance of the subject matter of the revised working paper and its value in providing a common understanding of the legal consequences

of the resort to the use of force by States without prior authorization by the Security Council. A sponsor delegation expressed its regret that consensus had not yet been achieved on the proposal, which had initially been introduced at the 1999 session of the Special Committee (see A/54/33, para. 90). The sponsors favoured retaining the proposal on the agenda of the Special Committee and called on delegations to work on a consensus document that could be presented to the General Assembly.

36. Several delegations reiterated their support for the proposal and its further consideration. It was stated that the proposal remained topical and was pointed out that an advisory opinion by the International Court of Justice would contribute to clarification of the provisions of the Charter regarding the use of force.

E. Consideration of the working paper submitted by Cuba on the strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations

37. The working paper entitled "Strengthening of the role of the Organization and enhancing its effectiveness: adoption of recommendations", submitted by Cuba at the 2012 session of the Special Committee (A/67/33, annex), was referred to during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 2nd meeting of the Working Group of the Whole.

38. During the general exchange of views, the sponsor delegation stressed that the working paper remained valid and invited delegations to share their views on it. Several delegations expressed their support for the proposal. Other delegations were of the opinion that the Special Committee should not consider topics that would be duplicative of or inconsistent with the roles of the principal organs of the United Nations as set forth in the Charter.

39. During the 2nd meeting of the Working Group of the Whole, the sponsor delegation reiterated that the general direction of the proposal was to recommend the carrying out of a set of legal analyses and studies in relation to the functions and powers of the General Assembly and the Security Council, particularly with regard to Articles 10 to 14 of the Charter. The sponsor delegation also asserted that the Special Committee was the appropriate forum for discussion of reform of the Charter, which it considered to be a living document.

40. The sponsor delegation reaffirmed that the intention of the proposal was to achieve the delicate balance envisaged in the Charter between the mandates of all the principal organs of the United Nations, and in particular to elevate the General Assembly as the main organ of the United Nations. It also emphasized its willingness to modify the language and the scope of the working paper, to submit a revised version and to continue consultations with delegations, and formally requested that it be retained on the agenda of the Special Committee.

41. Several delegations expressed support for the proposal and noted that legal analysis of the provisions of the Charter, in particular the provisions of Chapter IV, was relevant to and necessary for reform of the Charter. The Special Committee was urged to consider pragmatic ways to move forward on the proposal, including by referring the issue to the International Law Commission or by setting up a working group to consider the proposal.

42. Several other delegations maintained that the Charter was sufficiently clear and that further legal study would not add anything meaningful. It was also observed that the issue of the relationship between the General Assembly and the Security Council was well defined in the Charter and adequately dealt with by other bodies within the Organization.

F. Consideration of the working paper submitted by Ghana on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes

43. The working paper on strengthening the relationship and cooperation between the United Nations and regional arrangements or agencies in the peaceful settlement of disputes, submitted by Ghana at the 2016 session of the Special Committee (A/71/33, annex) in follow-up to its 2015 concept paper on the same subject (A/70/33, annex II), was referred to during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 1st meeting of the Working Group of the Whole.

44. During the general exchange of views, several delegations expressed their support for the working paper, noting that the subject was topical and relevant to the work of the Special Committee and that it could serve the practical purpose of helping to fill gaps in the work of the Organization. It was noted that various regional and subregional arrangements or agencies played an important role in the maintenance of international peace and security, in terms of both enforcement action and conflict prevention.

45. Some delegations recalled the discussion of the working paper during the intersessional informal meeting held on 2 February 2017 and encouraged the sponsor delegation to submit a revised working paper in the light of the comments it had received. It was emphasized that any proposal should fully conform to the Charter and should add value to the existing instruments for such cooperation, including the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security[10] referred to in the working paper.

46. At the 1st meeting of the Working Group of the Whole, the sponsor delegation explained that the working paper was aimed at filling any gaps that existed in the working relationship between the United Nations and regional arrangements or agencies with regard to the coordination of their activities, for example in such areas as regional security, preventive diplomacy, peacekeeping and post-conflict peacebuilding. It thanked the delegations for their constructive engagement and expressed the intention to submit a revised working paper, on the basis of the comments it had received, at a future session of the Special Committee.

47. The sponsor delegation was encouraged by some delegations to develop guidelines to facilitate cooperation between the United Nations and regional organizations.

[10] General Assembly resolution 49/57, annex.

Chapter III
Peaceful settlement of disputes

48. The Special Committee considered the item entitled "Peaceful settlement of disputes" during the general exchange of views held at its 284th and 285th meetings, on 21 and 22 February 2017, and at the 2nd meeting of the Working Group of the Whole.

49. During the general exchange of views, delegations expressed their support for all efforts to address the peaceful settlement of disputes. Delegations reiterated their preference that, in accordance with the mandate of the Special Committee, the question of the peaceful settlement of disputes remain on its agenda.

50. Several delegations reaffirmed the role of the International Court of Justice, as the principal judicial organ of the United Nations, in promoting the peaceful settlement of disputes, and recalled the adoption by the General Assembly of its resolution 71/147 on the commemoration of the seventieth anniversary of the Court. The significance of the Manila Declaration on the Peaceful Settlement of International Disputes, which had been approved by the Assembly in 1982 and was annexed to its resolution 37/10, was also recalled. It was noted that the Assembly had reaffirmed the principle of the peaceful settlement of disputes in several other resolutions, in particular in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (resolution 2625 (XXV), annex).

A. Proposal by the Russian Federation to recommend that the Secretariat be requested to establish a website on the peaceful settlement of disputes and update the *Handbook on the Peaceful Settlement of Disputes between States*

51. During the general exchange of views and at the 2nd meeting of the Working Group of the Whole, the sponsor delegation recalled its proposal, as revised in 2014 (see A/69/33, para. 52), that the Special Committee consider requesting the Secretariat to establish a website, within existing resources, dedicated to the peaceful settlement of disputes between States, which would include references to relevant United Nations documents, as well as to the United Nations and other organs active in the field, and to update the *Handbook on the Peaceful Settlement of Disputes between States*, prepared by the United Nations in 1992.

52. Several delegations voiced support for the proposal in the general exchange of views and in the Working Group of the Whole. It was recalled that the *Handbook* had been prepared on the basis of an earlier initiative of the Special Committee (see General Assembly resolutions 39/79 and 39/88 of 13 December 1984). The view was expressed that updating the *Handbook* and establishing a website on the means for the peaceful settlement of disputes would be useful to Member States, especially developing States, which might not be able to follow recent developments in international law owing to limited resources. It was noted that, in view of its useful nature, the substance of the proposal would not be controversial. It was also

maintained that updating the *Handbook* and establishing a website would likely not require additional resources.

53. Some delegations emphasized that the proposal had been on the agenda of the Special Committee for several years and requested that it be given thorough consideration. Some delegations questioned the added value of the proposal. The sponsor delegation asked that the proposal be retained on the agenda of the Special Committee.

B. Proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace"

54. The proposal submitted on behalf of the Non-Aligned Movement entitled "Pacific settlement of disputes and its impact on the maintenance of peace" at the 2015 session of the Special Committee (A/70/33, annex I) was referred to during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 2nd meeting of the Working Group of the Whole. At the 2nd meeting of the Working Group of the Whole, the sponsor delegations presented a non-paper reflecting the revised version of their proposal.[11]

55. In their general statement and in the Working Group of the Whole, the sponsor delegations explained that the revised proposal was an attempt to promote discussion on the peaceful settlement of disputes, in accordance with the provisions of Chapter VI of the Charter, and to increase the capacity of Member States to seek recourse to the means available for the peaceful settlement of disputes. The sponsor delegations underlined that the revised proposal was aimed at promoting the culture of peace among Member States and encouraging Member States to refrain from resorting to armed conflict.

56. The sponsor delegations reiterated that the suggested annual review of the issue by the Special Committee would be based on a compilation by the Secretariat of information on relevant practices and successful experiences in the peaceful settlement of disputes by Member States. It was clarified that such information would be submitted by Member States on a voluntary basis. The sponsor delegations also explained that the revised proposal would provide the opportunity for the Special Committee to consider the use of means available for the peaceful settlement of disputes in accordance with Chapter VI of the Charter, while the subtopic for discussion at each session of the Special Committee would be one of the various means identified in Article 33 of the Charter, as well as its guiding principles, privileges and limitations. It was noted that, under the revised proposal, the International Law Commission, given its role in the progressive development of international law, would be requested to consider including in its programme of work a study on the obligation of States to use peaceful means for settling their international disputes. It was recalled that the revised proposal was not intended to limit the free choice of means in peaceful dispute settlement.

[11] See A/AC.182/L.146, reproduced in the annex to the present report.

57. Many delegations, both in the general exchange of views and in the Working Group of the Whole, reiterated their commitment to the peaceful settlement of international disputes and expressed their support for the revised proposal. The presentation of the non-paper by the sponsor delegations was welcomed. The various means for the peaceful settlement of disputes envisaged in the Charter were stressed, as well as the obligation of Member States under the Charter to settle disputes by peaceful means. The importance of studying the use of means for dispute settlement was emphasized. Support was expressed for the approach taken in the revised proposal for Member States to provide information regarding the resort to peaceful means for dispute settlement on a voluntary basis.

58. Other delegations welcomed the revised proposal and expressed their willingness to engage in constructive discussions thereon. Questions were raised in relation to the compilation of information by the Secretariat on the information to be submitted by the Member States, and to the request for the International Law Commission to study the obligation of States to use peaceful means for settling their international disputes.

59. Delegations welcomed the informal intersessional meeting of the Special Committee, which had been held on 2 February 2017, and the constructive spirit that had been expressed during that meeting. The sponsor delegations expressed their willingness to continue consultations with other Member States and welcomed contributions that Member States might have regarding the revised proposal.

60. The Special Committee recommends that the following paragraph be included in the annual resolution on the report of the Special Committee to be adopted by the General Assembly at its seventy-second session:

> *Decides* to undertake an annual thematic debate in the Special Committee, under the agenda item entitled "Peaceful settlement of disputes", to discuss the means for the settlement of disputes, in accordance with Chapter VI of the Charter of the United Nations, including in particular those contained in Article 33, and consistent with the Manila Declaration on the Peaceful Settlement of International Disputes,[12] and in that regard:
>
> (a) Invites Member States to focus their comments during the thematic debate, to be held at the next session of the Special Committee (at the seventy-second session of the General Assembly), on the subtopic entitled "Exchange of information on State practices regarding the use of negotiation and enquiry", while ensuring that the other means of dispute settlement will be discussed at the subsequent sessions of the Special Committee;
>
> (b) Also invites Member States to comment on the subtopics of the annual debate in their general statements with a view to having the texts of those statements posted on the website of the Special Committee;
>
> (c) Calls upon the Special Committee to include a summary of the subtopics of the annual debate in its annual report for further consideration.

[12] General Assembly resolution 37/10, annex.

Chapter IV

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

61. During the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, delegations commended the continuing efforts of the Secretariat to update the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and to eliminate the backlog in their preparation. The significance of the two publications as sources of reference and as effective means of maintaining the institutional memory of the Organization, as well as their importance in the dissemination of the work of the Organization, were recalled. Several delegations emphasized the need to eliminate the backlog with regard to volume III of the *Repertory*. With regard to the *Repertoire*, it was also noted that the Secretary-General should continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952 (A/2170), as reiterated in paragraph 14 of General Assembly resolution 71/146.

62. Delegations expressed appreciation to those Member States that had contributed to the two trust funds established for the *Repertory* and the *Repertoire*, which had facilitated the progress in eliminating the backlog with regard to those publications, and encouraged Member States to make additional contributions. The Secretariat was also urged to broaden the scope of its cooperation with academic institutions.

63. At its 2nd meeting, the Working Group of the Whole was informed by representatives of the Secretariat about the status of the preparation of the *Repertory* and the *Repertoire*.

64. Concerning the status of the *Repertory*, it was reported that studies on Article 49 for volume III of Supplements 7 to 9 (1985-1999) and Supplement 10 (2000-2009) had been drafted and were currently under review. A study on Article 33 (1) had been completed and would shortly be submitted to the lead department, the Department of Political Affairs, for review. Work continued in the Office of the Legal Counsel on studies on Articles 104 and 105 for volume VI of Supplement 10 (2000-2009). The Department of Economic and Social Affairs was taking steps to prepare studies on volumes II and IV for Supplement 10 (2000-2009). With regard to Supplement 11 (2010-2015), the Codification Division was in the process of finalizing a study on Article 13 (1) (a) and the Office of Human Resources Management, in consultation with the Office of Administration of Justice, was completing a study on Article 101. On the website of the *Repertory*, 43 completed volumes, together with advance versions of studies under review, could be searched through the website's full-text search function.

65. The Secretariat maintained its long-standing relationship with the University of Ottawa and was also assisted by the work of interns in preparing studies for the *Repertory*. The Secretariat reiterated its appeal, previously made in the Sixth Committee, that delegations convey expressions of interest by academic institutions for possible cooperation on the *Repertory*. To date, the appeal had resulted in contact with two academic institutions in the Asia-Pacific region. The Secretariat had also asked States to consider sponsoring associate experts to work on the *Repertory* and had been contacted by one Member State as a result.

66. Since the establishment of the trust fund in 2005, more than $156,000 had been donated.[13] After the use of part of the funds for the preparation of *Repertory* studies, approximately $45,000 remained available in the trust fund.

67. With regard to the *Repertoire*, it was reported that the Security Council Practices and Charter Research Branch of the Security Council Affairs Division had completed Supplement 18, covering the years 2012 and 2013, which was in the process of being published. The Branch had also made significant progress in the drafting of Supplement 19, covering the period from 2014 to 2015. Advance versions of parts I, V and X were available on the website of the *Repertoire*; the remaining parts would be made available on the website in the second half of 2017. To improve the progress of its work, the Branch continued to develop efficiency-enhancing initiatives and closely collaborated with other departments. In October 2016, the Branch had concluded a lessons-learned study aimed at improving the publication and its website.

68. Work was also continuing on translating the *Repertoire* into all the official languages and publishing the completed Supplements. Supplements 12 to 14, covering the period from 1993 to 2003, had been made available online in all official languages, while translated versions of Supplements 15 and 16, covering the period from 2004 to 2011, would be added in the second half of 2017. The English version of Supplement 17 had been made available in print and, together with Supplement 18, had been scheduled to be translated by the end of 2017.

69. It was also emphasized that the search engine of the website of the *Repertoire* had been updated to include advanced search features and that it contained, inter alia, statistical data on the practice of the Security Council, highlights of Council practice for 2015 and 2016, tables and graphs showing components of the mandates of current peacekeeping and political missions and relevant provisions of decisions of the Council in relation to cross-cutting agenda items. Since October 2016, the website had also included a variety of graphs featuring information on decisions and measures related to the existing sanctions regime and other restrictions authorized pursuant to Article 41 of the Charter. The website's search function had been further updated to make it more user-friendly, reliable, accurate and effective.

70. The Branch had responded to numerous requests for information relating to the current and past practice of the Security Council and its subsidiary organs. It was emphasized that the preparation and publication of the *Repertoire* continued to rely on voluntary contributions to the trust fund and the sponsorship of associate experts.[14]

71. Following the reports by representatives of the Secretariat, it was noted that the *Repertory* and the *Repertoire* should be made available as paper publications and in all official languages of the United Nations.

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[13] Donations were made by Albania, Chile, Finland, Greece, Guinea, Ireland, Lebanon, Luxembourg, Turkey and the United Kingdom of Great Britain and Northern Ireland.

[14] Donations were made, or associate experts were sponsored, by Albania, Angola, Belarus, Belgium, Benin, China, the Congo, Croatia, Finland, France, Germany, Greece, Ireland, Italy, Japan, Libya, Luxembourg, Mexico, New Zealand, Nigeria, Norway, Pakistan, Portugal, Qatar, the Republic of Korea, the Russian Federation, Singapore, Switzerland, Turkey and the United Kingdom.

72. The Special Committee recommends that the General Assembly:

(a) Commend the Secretary-General for the progress made in the preparation of studies for the *Repertory of Practice of United Nations Organs*, including the use of the internship programme of the United Nations and cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

(b) Welcome the appeal inviting Member States to identify academic institutions having the capacity to contribute to the preparation of studies for the *Repertory* and to provide contact details of such institutions;

(c) Note with appreciation the contributions made by Member States to the trust fund for the elimination of the backlog in the *Repertory*, as well as to the trust fund for the updating of the *Repertoire*;

(d) Reiterate its call for voluntary contributions to the trust fund for the elimination of the backlog in the *Repertory* so as to further support the Secretariat in carrying out the effective elimination of that backlog, voluntary contributions to the trust fund for the updating of the *Repertoire* and the sponsoring, on a voluntary basis and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

(e) Call upon the Secretary-General to continue his efforts towards updating the two publications and making them available electronically in all their respective language versions, and welcome the establishment of a new website for the *Repertory*;

(f) Note with concern that the backlog in the preparation of volume III of the *Repertory*, although slightly reduced, has not been eliminated, and call upon the Secretary-General to address that issue effectively and on a priority basis, while commending the Secretary-General for progress made in reducing the backlog;

(g) Reiterate the responsibility of the Secretary-General for the quality of the *Repertory* and the *Repertoire*, and with regard to the *Repertoire* call upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report dated 18 September 1952 (A/2170).

Chapter V
Working methods of the Special Committee and identification of new subjects

A. Working methods of the Special Committee

73. The issue of the working methods of the Special Committee was addressed by several delegations during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and was considered at the 3rd meeting of the Working Group of the Whole.

74. During the general exchange of views, several delegations stressed that the Special Committee played an important role in the clarification and interpretation of provisions of the Charter and that there was a need to reinvigorate its work. Delegations also emphasized the role of the Special Committee in assisting in the revitalization and strengthening of the Organization, and in the reform process, in accordance with General Assembly resolution 3499 (XXX). The adoption of Assembly resolution 71/147, on the commemoration of the seventieth anniversary of the International Court of Justice, was recalled as a recent tangible result of the work of the Special Committee. A number of delegations also highlighted the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes as one of the major achievements of the Special Committee.

75. Several delegations continued to urge the Special Committee to consider, on a priority basis, ways and means of improving its working methods and better using its resources, and to fully implement the decision on working methods adopted in 2006, as reflected in paragraph 3 (d) of General Assembly resolution 71/146. The Special Committee was encouraged to examine the frequency and duration of its meetings, and to consider meeting every two years or shortening its sessions. Delegations also reiterated that the work of the Special Committee should be reviewed in order to ensure that it added value, that the overlap between organs considering the same or similar issues was minimized and that items that had been or were being considered elsewhere in the Organization were not duplicated by the Special Committee. It was also suggested that questions and proposals that did not enjoy the consensus of Member States should be removed from the agenda of the Special Committee.

76. It was highlighted that several items in the agenda of the Special Committee could benefit from careful scrutiny and needed to be meaningfully considered and debated by the Special Committee. Several delegations reiterated that the full execution of the mandate of the Special Committee depended on the political will of States and on the full and effective implementation of the methods of work of the Special Committee. The view was expressed that the working methods of the Special Committee should be guided by the substance of its work. It was also observed that the work of the Special Committee should be directed primarily at ensuring that the Organization lives up to the goals of the rule of law and justice.

77. At the 3rd meeting of the Working Group of the Whole, it was suggested that one full session of the Working Group be allocated to the consideration of the issue of sanctions, and that the Bureau, with the assistance of the Secretariat, should

afterwards circulate to delegations a non-paper containing the outcome of the discussion. It was also suggested that the report of the Special Committee should distinguish between the views of delegations expressed during the general exchange of views and those expressed in the Working Group of the Whole. Some delegations expressed support for those suggestions, while other delegations expressed concerns.

B. Identification of new subjects

78. The issue of the identification of new subjects was considered during the general exchange of views held at the 284th and 285th meetings of the Special Committee, on 21 and 22 February 2017, and at the 3rd meeting of the Working Group of the Whole.

79. During the general exchange of views, a number of delegations recalled proposals made at previous sessions of the Special Committee and called for their meaningful consideration. Some delegations expressed particular support for the recent proposals relating to the maintenance of international peace and security. Several delegations stated that the Special Committee could contribute to the examination of legal matters relating to the reform and revitalization of the Organization and its organs, including issues surrounding the roles and prerogatives of the General Assembly and the Security Council.

Annex

Revised proposal of the Non-Aligned Movement on the pacific settlement of disputes and its impact on the maintenance of peace

The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization,

Expressing the importance that the United Nations bring about by peaceful means the settlement of international disputes which might lead to a breach of the peace, taking into consideration that there are disputes in current international relations that could endanger international peace and security,

Recalling that the Manila Declaration on the Peaceful Settlement of International Disputes was the first instrument adopted by the General Assembly as a result of the work of the Special Committee,

Reaffirming the provisions of Chapter VI of the Charter of the United Nations and its commitment to peaceful means for the settlement of disputes,

Recalling that, as provided in Article 2, paragraph 4, of the Charter, all States Members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Reaffirming that the Charter, in Article 33, paragraph 1, stipulates that the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice,

Affirming that the Security Council should fully implement the relevant provisions of Chapter VI, in particular Article 33, paragraph 2, and avoid resorting to Chapter VII of the Charter as a general framework to address conflicts which do not necessarily represent a threat to international peace and security,

Reaffirming that all States should observe the provisions of the Charter,

Noting the draft of the articles on the responsibility of States for internationally wrongful acts, which have been commended to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action,

Recommends that the General Assembly decide that the Special Committee shall hold an annual thematic debate under the agenda item on the peaceful settlement of disputes, to discuss the means for the peaceful settlement of disputes, in accordance with the provisions of Chapter VI of the Charter of the United Nations, and in that regard:

(a) *Invites* Member States to focus their comments at the next session of the Special Committee, to be held at the seventy-second session of the General Assembly, on the subtopic "Exchange of information on State practice on the use of

[one of the methods in Article 33 of the Charter, to be decided by the Special Committee], for the peaceful settlement of disputes";

(b) *Also invites* Member States to submit, on a voluntary basis, information on their practice regarding the peaceful settlement of disputes, in particular on the use of [one of the methods in Article 33 of the Charter, to be decided by the Special Committee], its guiding principles, privileges and limitations, and requests the Secretariat to compile such information for further consideration by the Special Committee;

(c) *Suggests* that the International Law Commission consider including in its programme of work a study on the obligation of States to use peaceful means for settling their international disputes.

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